

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

JOSHUA NYAUNDI,)
Plaintiff,)
v.)
TRIUMPH FOODS, LLC,)
Defendant.)
No. 5:22-cv-06005-DGK

ORDER DENYING SECOND MOTION TO VACATE

On May 25, 2023, the Court granted Defendant's motion for summary judgment on all counts, ECF No. 62, and entered judgment in Defendant's favor, ECF No. 63. On June 29, 2023, Plaintiff filed a pro se motion to vacate the Court's judgment and appoint him counsel, ECF No. 66, which the Court denied finding Plaintiff was essentially attempting to relitigate his case,¹ ECF No. 70. Then on July 21, 2023, Plaintiff filed a pro se motion for a temporary restraining order, ECF No. 71, which the Court denied, ECF No. 74.

Now before the Court is Plaintiff's Pro Se Motion to Void Judgment Pursuant to Federal Rule of Civil Procedure 60(b)(4). ECF No. 75. This is Plaintiff's third attempt to relitigate claims arising out of his former employment with Defendant.

Here, Plaintiff argues the judgment is void for lack of due process because the attorneys in this case engaged in rampant fraud, and he was never properly served. The Court already addressed the former argument in its previous Orders denying relief, *see* ECF Nos. 70, 74, and will not address it again here. As for Plaintiff's latter argument, he fails to provide evidence of improper service and is merely attempting to relitigate his case. *See United Student Aid Funds,*

¹ Although Plaintiff's motion did not reference a procedural rule allowing the Court to vacate its judgment, the Court construed the motion primarily under Rule 60(b)(3).

Inc. v. Espinosa, 559 U.S. 260, 271 (2010) (“Rule 60(b)(4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard.”). Thus, the motion is DENIED.

IT IS SO ORDERED.

Date: August 4, 2023

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT